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PAGE 01

PTO/SB/88 (03-09)

Approved for use through 03/31/2012. OMB 0861-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))**

Docket Number (Optional)

RECEIVEDMail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

MAR 08 2010

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,852,443Application Number 10/613,784Issue Date 02/08/2005Filing Date 07/07/2003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above - identified patent

03/05/2010 DALLEN 00000041 6852443

☐

Is a reissue of original Patent No. _____

01 FC:1599

original issue date _____

2130.00 OP

original application number _____

original filing date _____

☐

resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

3/1/2010

Date

/Tue Nguyen/

Signature

Tue Nguyen, Reg. No. #53,390

Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

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PTO/SB/86 (03-09)

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1. SMALL ENTITY



Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS



Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490	3 ½ yr fee	(2551)
<input type="checkbox"/> \$	7 ½ yr fee	(1552)	<input type="checkbox"/> \$	7 ½ yr fee	(2552)
<input type="checkbox"/> \$	11 ½ yr fee	(1553)	<input type="checkbox"/> \$	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$

4. SURCHARGE

The surcharge required by 37 CFR 1.20(l)(2) of \$ 1,640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.SURCHARGE FEE BEING SUBMITTED \$ 1,640

5. MANNER OF PAYMENT



Enclosed is a check for the sum of \$



Please charge Deposit Account No. the sum of \$



Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY



The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No.

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7. OVERPAYMENT

As to any overpayment made please

OR

☐

Credit to Deposit Account No. _____

☐

Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

/Tue Nguyen/

Signature(s) of Petitioner(s)

2/27/2010

Date

Tue Nguyen

Typed or printed name(s)

53,390

Registration Number, if applicable

510-299-7240

Telephone Number

496 Olive Ave., Fremont, CA 94539

Address

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES

☒

Maintenance Fee Payment

☒

Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐

[Page 3 of 3]

MAR 01 2010

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

February 27, 2010

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OFFICE OF PETITIONS

STATEMENT FOR DELAY IN PAYMENT OF THE MAINTENANCE FEES

Sir:

Petitioner states that the delay in payment of the maintenance fees for the following patents is unintentional:

6,808,840; issued 10/26/2004

6,811,916; issued 11/2/2004

6,852,443; issued 2/8/2005

6,924,058; issued 8/2/2005

Neah Power Systems is a technology company, and has put significant emphasis on innovations and intellectual properties. Neah Power Systems first became aware of the abandonment status of the above-mentioned patents after recently being informed by its counsel and has immediately taken actions to correct the situation.

Petitioner states that the delay in payment of the maintenance fees for the above mentioned patents is unintentional, and respectfully requests that the delayed payment of the maintenance fees be accepted and the patents reinstated.

Respectfully submitted,

/Tue Nguyen/

Tue Nguyen

Reg. # 53,390

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NGUYEN TECH

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OFFICE OF PETITIONS

PTO/SB/00 (11-08)

Approved for use through 11/30/2011. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

☒ Practitioners associated with the Customer Number:

50,297

OR

☐ Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:

☐ The address associated with Customer Number:

OR

<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	
Country			
Telephone	Email		


Assignee Name and Address:

Neah Power Systems, Inc.
22118 20th Ave SE, Suite 142
Bothell, Washington 98021

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/06 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

SIGNATURE of Assignee of Record

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	2/16/2010
Name	Stephen Wilson	Telephone	425-424-3324
Title	CFO		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PTO/SB/98 (07-09)

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: **NEAH POWER SYSTEMS, INC.**Application No./Patent No.: **6,852,443**Filed/Issue Date: **02/08/2005**Titled: **FUEL CELLS HAVING SILICON SUBSTRATES AND/OR SOL-GEL DERIVED SUPPORT STRUCTURES****NEAH POWER SYSTEMS, INC.**, a **Corporation**

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest in;
2. ☐ an assignee of less than the entire right, title, and interest in
(The extent (by percentage) of its ownership interest is _____ %); or
3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

- B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: **OHLSEN** To: **NEAH POWER SYSTEMS, INC.**

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: **NEAH POWER SYSTEMS, INC.** To: **EPD INVESTMENT CO., LLC**

The document was recorded in the United States Patent and Trademark Office at
Reel **020125**, Frame **0399**, or for which a copy thereof is attached.

3. From: **EPD INVESTMENT CO., LLC** To: **NEAH POWER SYSTEMS, INC.**

The document was recorded in the United States Patent and Trademark Office at
Reel **021531**, Frame **0055**, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

Stephen Wilson

Printed or Typed Name

Date

CFO

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1480. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1480.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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ASSIGNMENT

Whereas, the undersigned Inventor, Leroy J. Ohlsen, a resident of Goldbar, WA, has invented a certain new and useful improvement in:

**FUEL CELLS HAVING SILICON SUBSTRATES AND/OR SOL-GEL
DERIVED SUPPORT STRUCTURES**

and has executed a declaration or oath for an application for a United States patent disclosing and identifying the invention, the invention has been filed on July 7, 2003, with Application Serial Number 10/613,784.

Whereas, Neah Power Systems, Inc., hereafter referred to as "assignee", whose mailing address is 22118 20th Ave SE, Suite 142, Bothell, Washington 98021, wishes to acquire the entire right, title and interest in the same.

Now, therefore, for good and valuable consideration acknowledged by said Inventor to have been received in full from said Assignee, said Inventor does hereby sell, assign, and transfer unto said Assignee the entire right, title and interest

(a) in and to said invention and said application, including any provisional application for which said application claims benefit;

(b) in and to all rights to apply in any or all countries in the world for patents, certificates of inventions or other governmental grants on said invention, including the right to apply for patent pursuant to the International Convention for the Protection of Industrial Property or pursuant to other convention, treaty, agreement, or understanding;

(c) in and to any and all applications filed and any and all patents, certificates of inventions or other governmental grants granted on said invention in the United States or any other country, including each and every application filed and each and every patent granted on any application which is a division, substitution, or continuation of any of said applications, including any provisional application for which said applications claim benefit;

(d) in and to each and every reissue or extension of any of said patents; and

(e) in and to each and every patent claim resulting from a reexamination certificate for any and all of said patents.

The terms and covenants of this Assignment shall inure to the benefit of said Assignee, its successors, assigns and other legal representatives, and shall be binding upon said Inventor, his or her respective heirs, legal representatives and assigns.

IN WITNESS WHEREOF, said Inventor has executed this instrument on the date as given below and delivered this instrument to said Assignee:

2-18-10

Date

th

Leroy J. Ohlsen